

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HOLLY LEANN STEVENS,

Plaintiff,

v.

UNNAMED DEFENDANT,

Defendant.

1:13-cv-616-WSD

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Janet F. King’s Final Report and Recommendation [3] (“R&R”) recommending that this action be dismissed for Plaintiff’s failure to comply with a lawful Order of the Court.

I. BACKGROUND

On February 25, 2013, Plaintiff Holly Leann Stevens (“Plaintiff”), an inmate of Pulaski State Prison, proceeding *pro se*, filed her complaint for mandamus relief. On March 7, 2013, Magistrate Judge King ordered Plaintiff, within thirty (30) days, to pay the standard \$350.00 filing fee or submit an *in forma pauperis* (“IFP”) application. (R&R at 1). The Magistrate Judge advised Plaintiff that if she did not pay the filing fee or submit an IFP application, this action would be dismissed. (Id.).

On April 30, 2013, after failing to pay the filing fee, submit an IFP application or otherwise respond, the Magistrate Judge issued her R&R recommending that Plaintiff's Complaint be dismissed without prejudice, pursuant to Local Rule 41.3(A), for failure to obey a lawful order of the Court. (Id.). Plaintiff did not object to the R&R.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1) (Supp. V 2011); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982) (per curiam). A district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). If no party has objected to the report and recommendation, a court conducts only a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983) (per curiam).

B. Analysis

Plaintiff did not object to the Magistrate Judge's finding in her April 30, 2013 R&R that Plaintiff failed to pay the filing fee or submit an IFP application as


ordered, or the Magistrate Judge's recommendation that this action be dismissed without prejudice because of Plaintiff's failure to pay the filing fee or submit an IFP application. The Court does not find plain error in this finding and recommendation. See L.R. 41.3(A)(2), N.D. Ga. (authorizing the court to dismiss an action for want of prosecution when a plaintiff "fail[s] or refuse[s] to obey a lawful order of the court in the case"); see also Heard v. Nix, 170 F. App'x 618, 619 (11th Cir., 2006) (affirming dismissal under Rule 41.3 and Federal Rule of Civil Procedure 41(b) for failure to comply with district court's order). Accordingly, the Court finds this action should be dismissed without prejudice.

III. CONCLUSION

Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Janet F. King's Final Report and Recommendation [3] is **ADOPTED**, and this action is **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 41.3(A).

SO ORDERED this 6th day of September, 2013.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE